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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE PRESIDING
PATRICIA STEWART, D.O.,)
)
Plaintiff,)
) ED CV 13-1670-ODW(DTBx)
vs.)
)
AMERICAN ASSOCIATION OF PHYSICIAN) VOLUME 1
SPECIALISTS, INC., WILLIAM)
CARBONE; ROBERT CERRATO; SVETLANA) PAGES 1 - 62
RUBAKOVIC and DOES 1-100,)
)
Defendants.)
_____)

REPORTER'S TRANSCRIPT OF
TRIAL - DAY 1
TUESDAY, JANUARY 26, 2016
9:33 A.M.
LOS ANGELES, CALIFORNIA

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A P P E A R A N C E S (continued)

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I N D E X

<u>EXAMINATION</u>	<u>PAGE</u>	<u>VOL.</u>
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1 LOS ANGELES, CALIFORNIA; TUESDAY, JANUARY 26, 2016

2 9:33 a.m.

3 -o0o-

4 (Call to Order of the Court.)

5 (Open court with the prospective jurors.)

6 THE COURTROOM DEPUTY: All rise and please raise
7 your right hand.

8 Do you and each of you solemnly swear that you will
9 truthfully answer all questions that shall be asked of you
10 touching upon your qualification as a juror in the case now
11 before this court, so help you God?

12 (All prospective jurors answered affirmatively.)

13 THE COURTROOM DEPUTY CONNIE: Please be seated.

14 THE COURTROOM DEPUTY MS. ENGLISH: You may be
15 seated.

16 THE COURT: Way too much formality.

17 Good morning, ladies and gentlemen. I'm Judge Otis
18 Wright. Saw my name on the door.

19 Everybody knows what that is, right? (Demonstrating.)
20 Everybody in Los Angeles County seen those. This one has my
21 name on it. Everybody knows what that is too, right? 'Cause
22 y'all got one. This is mine. They wouldn't let me serve. I
23 tried.

24 Here's this. Particular point of my name being on the
25 door out there is this: Some of you are going to say, Well, I

1 can't serve on jury duty, because, well, my job. And if I'm
2 not there, then life as we know it ceases to exist. Trust me,
3 when I go to jury duty, there's nothing going on in here.
4 Nothing. Okay? But my behind shows up. I never get selected.
5 They call; I show up.

6 Can you imagine how hypocritical it would be of me not to
7 show up for jury duty? Aside from the fact that I believe that
8 this is the way it ought to be done, that I don't think we
9 should have professional jurors, you know, paid by whom? The
10 government? City? No.

11 And I know if I need to have a dispute resolved, I want my
12 peers. I want people who have walked where I've walked to
13 decide the issue. And the only way that happens, the only way
14 this fabulous system actually works is if we're willing to show
15 up. Okay?

16 All right. Now, here's the deal. In fact, let me tell
17 you what this is about, 'cause you all don't really know what
18 the case is about and you're sitting here wondering is it a
19 criminal case? Is it a bank robbery thing? Is this terrorism?
20 Is Homeland Security going to come in? Nah, it's not going to
21 be that interesting, I'm afraid.

22 This is a statement that the parties have prepared to just
23 give you an idea, for example, that this isn't a patent
24 infringement case, all right? This case is about plaintiff,
25 Patricia Stewart, who is a board-certified dermatologist,

1 bringing suits against defendants American Association of
2 Physician Specialists, Inc., William Carbone, Robert Cerrato,
3 Stephen Montes for breach of contract, fraud, and gender
4 discrimination. And of course the defendants deny any
5 wrongdoing.

6 Now, we're going to introduce the players only for one
7 purpose: If anybody happens to be engaged to any of the
8 participants in this case, I'd like to know about it. Or, if
9 there is any other reason that you may have some bias against
10 one party or another, I'd kind of like to know about it.

11 You all have met Ms. English. She runs the courtroom, and
12 those of you who will be lucky enough to serve on this case
13 will get real close with Ms. English.

14 And behind me to my left, your right, is Ms. Debi Read.
15 She is the official shorthand reporter for this courtroom. She
16 records everything that is said in this courtroom.

17 And now I'm going to have the attorneys identify
18 themselves and those seated at counsel table, as well as read
19 their witness lists. If any of you feel that you know someone
20 on the witness list, I want you to keep that in mind 'cause I
21 want to ask you, and we will also get further identifying
22 information regarding that witness to see whether or not any of
23 you know someone who's going to be a witness in the case.

24 All right. So we'll begin with the identification of the
25 attorneys, beginning with the plaintiffs.

1 MS. HILAIRE: Mika Hilaire appearing on behalf of
2 the plaintiff, Patricia Stewart.

3 MR. CONWELL: Good morning. My name is Don Conwell
4 and I'd like to introduce Dr. Patricia Stewart to you. And
5 also we're assisted with computer technology by Arie Schinnar.

6 Your Honor, do you want me to read our witness list at
7 this time?

8 THE COURT: Yes, yes.

9 MR. CONWELL: I'll come up here so you can hear me.
10 These are witnesses who may be called in this trial:

11 Patricia Stewart, who you just saw, Leslie Radentz, Atwood
12 Rice, Thomas Castillo, William Okerblom, William Carbone,
13 Robert Cerrato, Eric Wilkens, Cassandra Newby, David Lemonick,
14 Betsy Schenck, Anthony Russo, Kenneth Wallace, Dr. Leonard
15 Young, Christine Otto, and Heather Xitco. That's it. Thank
16 you.

17 MR. SCHNEIDER: Good morning, ladies and gentlemen.
18 I'm Eric Schneider. With me and counsel in this case are
19 Marlen Kruzhkov, right here, and Leila Rossetti.

20 The witnesses we will be presenting, some of the names
21 you've already heard; both sides are relying on them as
22 witnesses: Anthony Durante is the Chief of Operations of the
23 American Association of Physician Specialists. It goes by
24 AAPS; William Carbone is in the lovely yellow tie there. He is
25 the Chief Executive Officer of AAPS. Dr. Robert Cerrato is

1 sitting next to him.

2 In addition, we will be calling Dr. Anthony Russo,
3 Dr. Kenneth Wallace, Dr. William Okerblom, Dr. Joseph
4 Gallagher, Lynn Haas, H-a-a-s, Dr. John Okerblom, Dennis
5 Coleman, Jubin Merati, Dr. Betsy Schenck. That's all we got.

6 THE COURT: Thank you, Mr. Schneider.

7 All right. Any recognition? First of all, does anyone
8 out here in the panel recognize anyone seated at counsel table?
9 No?

10 What about from the witness list? Any names sound
11 familiar?

12 Yes, sir. What is your name?

13 THE PROSPECTIVE JUROR NO. 13: I'm David Karns.
14 David Karns.

15 THE COURTROOM DEPUTY: Number 13. Number 13.

16 THE PROSPECTIVE JUROR NO. 13: Strictly a name
17 recognition. I don't know.

18 THE COURT: Who do you think you recognize,
19 Mr. Karns?

20 THE PROSPECTIVE JUROR NO. 13: Well, I recognize the
21 name Thomas Castillo and I recognize --

22 THE COURT: Okay. Hang on. Hang on. Let's just
23 deal with Mr. Thomas Castillo. Whose witness is that?

24 MR. CONWELL: Plaintiff's, your Honor.

25 THE COURT: Plaintiff? All right. Any identifying

1 information regarding Mr. Castillo? Occupation? Geographic
2 location in the country?

3 MR. CONWELL: He's a physician who resides in
4 Wisconsin.

5 THE PROSPECTIVE JUROR NO. 13: No.

6 THE COURT: Who else?

7 THE PROSPECTIVE JUROR NO. 13: Well, Dr. Anthony
8 Russo, but I only know an Anthony Russo, so he's not a doctor.

9 THE COURT: He's not a doctor, okay. Thank you.

10 THE PROSPECTIVE JUROR NO. 13: There was one other
11 on this side -- and I can't remember which one that he had
12 mentioned -- sounded familiar too, was a familiar name. No --
13 perhaps they could repeat them and I'll tell you.

14 THE COURT: Okay.

15 THE COURTROOM DEPUTY: Turn your mic on. Green
16 light. When it's green, it's on.

17 MR. SCHNEIDER: Yeah.

18 THE COURT: They got graduate degrees.

19 MR. SCHNEIDER: William Carbone, fellow over there;
20 Robert Cerrato is sitting next to him; Anthony Durante is
21 seated here; Kenneth Wallace, he's a doctor; Dennis Coleman.

22 THE PROSPECTIVE JUROR NO. 13: Dennis Coleman.

23 THE COURT: What is Dennis Coleman's profession and
24 where does he live in the country?

25 MR. SCHNEIDER: He lives in the city of Oxnard and

1 he is retired in the hospital industry.

2 THE PROSPECTIVE JUROR NO. 13: No, that's not him.

3 THE COURT: Okay.

4 THE PROSPECTIVE JUROR NO. 13: Those were the three
5 that --

6 THE COURT: Thank you, sir. Appreciate it,
7 Mr. Karns.

8 Anybody else? (No response.)

9 Anything that you've heard so far about the subject matter
10 of this litigation -- and you haven't heard much at all -- but
11 you know it's a doctor against a medical association and the
12 doctor's a dermatologist. Does that strike a chord with
13 anybody? Does anyone go, "Oh, my God, I'm conjuring up
14 horrible memories of the past"? Anything at all like that?
15 Had a bad breakup with a dermatologist when you were in
16 college? Anything like that? (No response.)

17 Got a skin condition you can't get rid of because -- I
18 didn't think so, but some of the cases are -- particularly some
19 of the criminal cases, we have to worry about jurors having
20 been victims of that same crime. And we have to be sensitive
21 to that, and we absolutely don't want to put anyone through a
22 difficult experience or reawaken some unpleasant memories.

23 But this is pretty dry, okay? I wish it were more
24 exciting, but...

25 We've already talked to those among you who have, we'll

1 just say, issues that preclude you from serving as jurors. The
2 only thing I care about is this -- the only thing the parties
3 care about: fairness, an open mind, a willingness to listen to
4 the evidence, decide where the truth lies, listen to my
5 instructions on the law and apply the facts to the law as I
6 give it to you, and render what is -- in your mind is a fair
7 and just decision. That's what you're being called upon to
8 do -- no more, no less. I'm not asking you to sit in judgment
9 of your fellow man and all that sort of thing. I'll do that.
10 Just asking you to find the facts.

11 Anybody have a real problem with that? I'm waiting for
12 the aluminum hat. No aluminum hats? Okay.

13 I understand that you all are going to want to do other
14 things, that this is a disruption in your lives, but I can make
15 you a promise. I can make you a promise. With the eight of
16 you who are going to be fortunate enough to sit on this jury, I
17 promise you an enjoyable experience. 100 percent of the time
18 I've delivered on that promise. Ms. English sees to it.

19 Here's the way it's going to work, and maybe this too will
20 impact some of you. We're going to begin at 8 o'clock in the
21 morning and we're going to end around 2 in the afternoon.
22 There'll be no stopping for lunch. You'll be going home while
23 the sun is still shining. Okay?

24 The length of this puppy: It's going to take us a couple
25 of weeks. And I'm going to do everything in my power, as are

1 the attorneys, to expedite this thing and move it along. And
2 we always bring in trials a shorter period of time than we
3 estimate because the lawyers always end up getting information
4 to you much more expeditiously than they thought would be
5 possible.

6 Now, if we can do that, if we can get this to you in a
7 couple of weeks -- we're not going to do anything today other
8 than select you today, and I've got another trial I've got to
9 do, a court trial I've got to do -- as soon as we get you
10 selected, we come back in the morning, come back at 8 o'clock
11 in the morning, we're going to go in two weeks, maybe less,
12 maybe a lot less. Is that going to be a problem?

13 (No response.)

14 God, I love you guys. This is so easy, I can't stand it.
15 All right. I'm trying to look for problems and you guys aren't
16 giving me any problems. All right. Tell you what. We're
17 almost there.

18 I forgot to tell you about the process. Listen. Going to
19 ask you questions. Questions are not meant to embarrass you,
20 trust me. But here's the deal. I need you to be candid with
21 me. What we don't want is this -- and this happens all the
22 time -- it happens all too often -- trial is over with and now
23 we're reading in the paper where some juror is talking to the
24 media and revealing for the first time that, "I was actually
25 once married to one of the parties in the case." Nobody knew

1 this. The things that we would like to know, we want to know
2 now. We want -- we don't want to go through an entire trial
3 and then have one of you talking to some reporter and revealing
4 things that we really need to know now. Okay?

5 I need you to be honest. I need you to not only answer
6 the question, perhaps give us more information than we ask for.
7 Okay? It's better that you talk too much than not enough. We
8 don't want you to withhold anything.

9 We also don't want to embarrass anyone. If you think the
10 question would cause you some embarrassment, just let me know
11 and then we'll go talk about it at the bench. All right? Just
12 me and 26 of these lawyers, okay?

13 All right. The only thing I care about -- I don't believe
14 this -- all I care about, aside from how you may feel about
15 things and have felt about things in the past, I don't really
16 care. Even though I'm going to ask you questions about it, I
17 don't really care what you do for a living. I don't care what
18 your spouses do for a living. I don't care what your kids do
19 for a living. I'm not going to draw conclusions based upon
20 that. I've been there. Because of my past employment, people
21 think they know me. No. So, I don't make those
22 generalizations about other citizens -- because you did this or
23 do that for a living that you must feel a certain way. No. I
24 know that's not true.

25 But what I do care about is this: For now, right here and

1 now, for the purposes of this proceeding, are you willing to
2 put all that stuff aside, just listen; listen to what people
3 talk about on that witness stand, make a determination for
4 yourself whether or not you think they're telling the truth or
5 not? You are the triers of fact. You will determine what
6 happened. And I'll tell you the law, so you'll know what to do
7 with that.

8 Putting everything else aside, can you be fair and
9 impartial to these litigants in this case? Can you do that?

10 Who can't? Who feels that they in all honesty cannot do
11 that? And that's all right. I've heard people say, "I can't
12 do that. I'm an idiot. I can't be fair." Well, you wouldn't
13 be an idiot. You'd be honest. There's some people, they
14 simply -- they can't do this. And we need to know now. They
15 need to know now. Anybody at all? This is your E ticket out
16 of here. (No response.)

17 No? You're giving me that look.

18 THE PROSPECTIVE JUROR NO. 5: Yeah.

19 THE COURT: What's your name, ma'am?

20 THE PROSPECTIVE JUROR NO. 5: Wolf.

21 THE COURT: Ms. Wolf?

22 THE PROSPECTIVE JUROR NO. 5: First question, I want
23 to know what that is? You said everybody knows what that is --

24 THE COURT: Everybody knows what this is, Ms. Wolf.

25 THE PROSPECTIVE JUROR NO. 5: I don't know what that

1 is.

2 THE COURT: That's 'cause you threw yours away.

3 THE PROSPECTIVE JUROR NO. 5: No. That's 'cause I
4 don't live in Los Angeles County.

5 THE COURT: There you go.

6 THE PROSPECTIVE JUROR NO. 5: That's why.

7 THE COURT: Yeah, this is the juror -- I forgot. I
8 used to know the numbers. They send out a million of these
9 things every month? L.A. County trying to get jurors.

10 THE PROSPECTIVE JUROR NO. 5: I live in Ventura
11 County. My summons looks different.

12 THE COURTROOM DEPUTY: Number 5.

13 THE COURT: You're right there on the first page,
14 Ms. Wolf. Okay. Retired teacher. Yes, ma'am.

15 By the way, thank you. Listen, this has got nothing to do
16 with nothing. In my view there's two decent professions, and
17 one of them is teaching.

18 THE PROSPECTIVE JUROR NO. 5: Thank you.

19 THE COURT: Talk to me.

20 THE PROSPECTIVE JUROR NO. 5: I hate to throw out
21 the age card, but I'm in my late 70s and I cannot get up at
22 4 o'clock in the morning for two weeks straight to get here on
23 time.

24 THE COURT: What if I told you I can get you a hotel
25 room down the street?

1 THE PROSPECTIVE JUROR NO. 5: Possibly make it by 8,
2 but I cannot come from Ventura every day.

3 THE COURT: I wouldn't expect that.

4 THE PROSPECTIVE JUROR NO. 5: And I won't get home
5 tonight till 8 o'clock because of the way the trains run, and I
6 don't want to drive in traffic early morning and late
7 afternoon, so I have to take the train, and the train won't get
8 me home before 8 tonight.

9 THE COURT: Okay.

10 THE PROSPECTIVE JUROR NO. 5: So I just --

11 THE COURT: I hear you. And I'm glad you're
12 bringing this up. And me getting you a hotel room is not going
13 to help?

14 THE PROSPECTIVE JUROR NO. 5: Yeah, I could probably
15 do it with a hotel room where I could stay here.

16 THE COURT: Yeah, you can stay here.

17 THE PROSPECTIVE JUROR NO. 5: All right.

18 THE COURT: That be okay?

19 THE PROSPECTIVE JUROR NO. 5: Yeah. I can -- I can
20 manage to get up at 6. But 4 is just too early for these old
21 bones.

22 THE COURT: No, I hear you. That's fine.

23 THE PROSPECTIVE JUROR NO. 5: Yeah.

24 THE COURT: I appreciate you letting me know.

25 Is there similar problems with anyone else?

1 (No response.)

2 Cool. All right. Thanks, Ms. Wolf.

3 Absolutely get her a hotel room.

4 THE COURTROOM DEPUTY CONNIE: We're going to call
5 names, and the first seat will be in the front right here and
6 then the next going that way. There is a step, so be careful
7 when your name is called.

8 Miriam Hernandez, H-e-r-n-a-n-d-e-z.

9 Jacob Running, R-u-n-n-i-n-g.

10 Renee Johns, J-o-h-n-s.

11 Louetta Wolf, W-o-l-f.

12 Jazmin Ramos, R-a-m-o-s.

13 Jose Contreras, C-o-n-t-r-e-r-a-s.

14 Janine Dunn, D-u-n-n.

15 Linda Cattaneo, C-a-t-t-a-n-e-o.

16 THE COURTROOM DEPUTY MS. ENGLISH: No, no. Come
17 this way.

18 THE COURTROOM DEPUTY CONNIE: Cynthia Vargas,
19 V-a-r-g-a-s.

20 Christopher Nation, N-a-t-i-o-n.

21 David Karns, K-a-r-n-s.

22 Kirby Kotler, K-o-t-l-e-r.

23 Zulema Juarez, J-u-a-r-e-z.

24 Nicholas Destefano, D-e-s-t-e-f-a-n-o.

25 Yvonne Fiebush, F-i-e-b-u-s-h.

1 Mario Garcia, G-a-r-c-i-a.

2 THE COURT: All right. Ms. Hernandez, you see the
3 monitor to your left, that huge screen? Could you answer the
4 questions on the screen, please.

5 THE PROSPECTIVE JUROR NO. 1: My name's Miriam
6 Hernandez. My address?

7 THE COURT: Just -- just the city.

8 THE PROSPECTIVE JUROR NO. 1: I live in Pacoima in
9 San Fernando Valley. And I work with a special boy. I'm
10 single. And no, I don't have grandchildren. I have not ever
11 served on a jury before. Uh --

12 THE COURT: Well, no, I think that's it.

13 THE PROSPECTIVE JUROR NO. 1: Okay.

14 THE COURT: Okay. Under question three, occupation,
15 you said something about you work with a special boy?

16 THE PROSPECTIVE JUROR NO. 1: Yeah, special needs, I
17 work in Santa Monica and I have to be work three days a week.

18 THE COURT: Two days a week?

19 THE PROSPECTIVE JUROR NO. 1: Three.

20 THE COURT: Three? Is this in a school setting or
21 do you go to someone's home?

22 THE PROSPECTIVE JUROR NO. 1: Uhm, no, in the home,
23 the parent home.

24 THE COURT: You go to the parents' home?

25 THE PROSPECTIVE JUROR NO. 1: Yeah.

1 THE COURT: Okay. And what is it that you do with
2 this child?

3 THE PROSPECTIVE JUROR NO. 1: Uhm, I have to give
4 his medicine and, uhm, cook his dinner. I give a shower. When
5 he's tired to screaming or yelling, I have to take care to stop
6 doing that.

7 THE COURT: What days of the week do you perform
8 these functions?

9 THE PROSPECTIVE JUROR NO. 1: Uhm, Tuesday, Thursday
10 and Sunday.

11 THE COURT: Who's doing it now?

12 THE PROSPECTIVE JUROR NO. 1: He have another
13 house -- he have another person who take care.

14 THE COURT: Okay. Thank you.

15 All right. If you'll pass the mic then to your right,
16 please.

17 THE PROSPECTIVE JUROR NO. 2: Jacob Running. I'm
18 from Covina. And I have two occupations. I work for the City
19 of San Gabriel Public Works part-time, and I manage a retail
20 shop. I am married. I do not have any children and I have not
21 served on a jury before.

22 THE COURT: Thank you, sir.

23 THE PROSPECTIVE JUROR NO. 3: My name is Renee
24 Johns. I live in Simi Valley. I work at a credit union. I am
25 married. I have two grown children: One is still in school

1 and one works as a server at Disneyland.

2 THE COURT: What's your husband's occupation?

3 THE PROSPECTIVE JUROR NO. 3: He's a sales rep for
4 Granger.

5 THE COURT: I said husband. I'm sorry. Okay.
6 Thank you. Pass the mic now to Ms. Wolf.

7 THE PROSPECTIVE JUROR NO. 4: I'm Louetta Wolf. I
8 live in Ventura. I'm a retired teacher. I'm not married. I
9 have two grown children. One is a supervisor in the Water
10 Department at Simi Valley. The other one is a salesperson.
11 And no, I haven't served on a jury before.

12 THE COURT: All right. Thank you, Ms. Jones[sic].

13 THE PROSPECTIVE JUROR NO. 5: My name is Jazmin
14 Ramos. I live in the Los Angeles area. I am a medical biller
15 for UC Care Medical Group. I'm not married, no children, and I
16 have never served before on a jury.

17 THE COURT: All right. Thank you.

18 THE PROSPECTIVE JUROR NO. 6: My name is Jose
19 Contreras. I'm from Santa Clarita. My occupation, I work for
20 Sherman William Paint Store and I go to college, Cal State
21 L. A., majoring in business administration. I'm single, no
22 kids. I haven't been a juror before.

23 THE COURT: Thank you. Ms. Dunn?

24 THE PROSPECTIVE JUROR NO. 7: My name's Janine Dunn.
25 I live in Woodland Hills, California. I am a dental hygienist

1 by profession, but I now teach in the community college and the
2 university system.

3 THE COURT: What are you teaching?

4 THE PROSPECTIVE JUROR NO. 7: Uhm, School of
5 Dentistry, dental. Uhm, I also work for a dental company as an
6 independent professional educator, and I also still work in
7 private practice. I am in a committed relationship. I have
8 one grown son who is in college. And I have never served on a
9 jury.

10 THE COURT: Are you now a member of or have you ever
11 been a member of a dental association?

12 THE PROSPECTIVE JUROR NO. 7: I am.

13 THE COURT: You are?

14 THE PROSPECTIVE JUROR NO. 7: Several.

15 THE COURT: Several?

16 THE PROSPECTIVE JUROR NO. 7: Yep.

17 THE COURT: Have you ever held a position of either
18 a director or officer?

19 THE PROSPECTIVE JUROR NO. 7: No.

20 THE COURT: Have you ever been asked to leave that
21 association or any professional association?

22 THE PROSPECTIVE JUROR NO. 7: No.

23 THE COURT: Okay. Have you ever been disciplined by
24 the association?

25 THE PROSPECTIVE JUROR NO. 7: No.

1 THE COURT: Okay. Thank you.

2 THE PROSPECTIVE JUROR NO. 7: Uh-huh.

3 THE PROSPECTIVE JUROR NO. 14: My name is Nicholas
4 Destefano. I'm a freelance illustrator and copy editor. I am
5 married. My wife is a office manager for a real estate
6 company. We have no children. And I have never served on a
7 jury.

8 THE COURT: Thank you, sir.

9 THE PROSPECTIVE JUROR NO. 13: My name is Zulema
10 Juarez. I live in Simi Valley. Uhm, I'm a marketing
11 representative for an insurance company. I am married and have
12 two kids, one in college, one is working in an insurance
13 agency. And my husband is -- works in real estate. I have
14 never served in a jury before.

15 THE COURT: All right. Thank you.

16 THE PROSPECTIVE JUROR NO. 12: My name is Kirby
17 Kotler. I live in Malibu. I am a real estate agent in Malibu
18 and also I build custom homes in Malibu. I am married and my
19 wife is a nurse practitioner, liver transplant. I have two
20 children, not grown. They're teenagers and a handful. And
21 I've never served on a jury before.

22 THE COURT: All right. Thank you.

23 THE PROSPECTIVE JUROR NO. 11: My name is David
24 Karns. I live in the Santa Clarita area. I own a real estate
25 company for 30 years. My wife, Susan Karns, is also in the

1 business. I have two grown children that are also in the
2 business. And I've never served on a jury before.

3 THE COURT: Thank you, sir.

4 THE PROSPECTIVE JUROR NO. 10: My name is
5 Christopher James Nation. I live in San Dimas, California. My
6 occupation is an accountant. I work at Macias, Gini &
7 O'Connell as an external auditor. I'm in a committed
8 relationship and she works at SoCal Gas Company as an
9 accountant as well. I do not have any children, and I've never
10 served on a jury before.

11 THE PROSPECTIVE JUROR NO. 9: My name is Cynthia
12 Vargas. I reside in West Covina. I've been a contract admin
13 analyst for two years. My husband is a maintenance mechanic
14 and my children are not grown. And I've never served on a jury
15 before.

16 THE COURT: Thank you.

17 THE PROSPECTIVE JUROR NO. 8: My name is Linda
18 Cattaneo. I'm from San Luis Obispo, California. I am a
19 retired house painter and my -- I am married and my husband is
20 a retired supervisor from the garbage company. I have three
21 children, all grown. The oldest works in a law office as a
22 secretary. The middle works at an ITT company in San Diego,
23 and the youngest is in college. And I've never served on a
24 jury duty before.

25 THE COURT: All right. Thank you, ma'am.

1 THE PROSPECTIVE JUROR NO. 15: My name is Yvonne
2 Fiebusch. I live in Covina. I'm a financial analyst and I was
3 a legal secretary for 27 years before that. I'm married. My
4 husband is a district attorney for San Bernardino and a special
5 Assistant U.S. Attorney for Riverside. I have two kids -- we
6 have two kids. One is in college and the other one's in high
7 school. I have served on a jury. It was a civil and we did
8 reach a verdict.

9 THE COURT: I'm just going to ask you one thing. I
10 want -- well, if I ask you that everything that you learn about
11 the law as it applies to this case, I'm going to ask that you
12 receive it from me, not from your husband, no matter how
13 incredible his credentials may be, can you promise that you
14 will rely on this Court to instruct you on all areas of the law
15 that are relevant to your duties as a juror in this case?

16 THE PROSPECTIVE JUROR NO. 15: Yes.

17 THE COURT: Okay. Thank you.

18 Well, wait. One more thing. You were a legal secretary?

19 THE PROSPECTIVE JUROR NO. 15: Yes.

20 THE COURT: What was the law firm's specialty?

21 THE PROSPECTIVE JUROR NO. 15: Everything. It's
22 Sidley Austin.

23 THE COURT: Oh, Sidley?

24 THE PROSPECTIVE JUROR NO. 15: Yeah.

25 THE COURT: Okay. Yeah. Okay. Thank you.

1 THE PROSPECTIVE JUROR NO. 16: My name is Mario
2 Garcia. I live in Los Angeles. I am a administrator assistant
3 for the last three years. Before that I was in the airline
4 industry.

5 THE COURT: Wait, wait, wait. Did you say you were
6 a illustrator's assistant?

7 THE PROSPECTIVE JUROR NO. 16: Administrator.

8 THE COURT: Administrative assistant. Okay. With
9 whom?

10 THE PROSPECTIVE JUROR NO. 16: With church.

11 THE COURT: A church?

12 THE PROSPECTIVE JUROR NO. 16: Yes.

13 THE COURT: Okay. Thank you.

14 THE PROSPECTIVE JUROR NO. 16: Actually, my previous
15 occupation -- I jumped from my previous one -- I used to work
16 here in the courthouse in the jury department.

17 THE COURT: Ms. English said she thought she
18 recognized you. And you recognized Ms. English?

19 THE PROSPECTIVE JUROR NO. 16: I think so, yes.

20 THE COURT: Well, I wanted you -- I wanted all you
21 to tell me, you know, you recognize any of us? You used to
22 date Ms. English, right?

23 THE PROSPECTIVE JUROR NO. 16: No. I -- she seemed
24 familiar, but I wasn't sure. That's why I didn't.

25 THE COURT: All right. Well, Ms. English isn't a

1 party. She hasn't taken up sides here, so, all right. Well,
2 welcome back.

3 THE PROSPECTIVE JUROR NO. 16: Thank you. I have
4 one child, a grown son who works in education. I have served
5 in several juries before, both civil and criminal.

6 THE COURT: Okay. Excellent. Thank you.

7 THE PROSPECTIVE JUROR NO. 16: And we did reach
8 verdicts.

9 THE COURT: Thank you.

10 All right. I need to see at least one lawyer from each
11 side very quickly.

12 Ladies and gentlemen, we may have the first sidebar.
13 There may be others during jury selection. I'm going to try to
14 keep sidebars to an absolute minimum during the trial because I
15 don't want to waste your time. Those of you who are going to
16 be selected here, you're here for that reason and the reason
17 isn't to watch us chatting over here. I promise you that the
18 only time it's going to happen is when it's absolutely
19 necessary, like now.

20 (Sidebar conference:)

21 THE COURT: Okay. I'm only throwing this out and
22 it's not a suggestion.

23 MR. SCHNEIDER: You said you wanted one more?

24 THE COURT: I don't care. At least one lawyer.

25 Okay. I don't know how to put this. I was a little

1 troubled by Ms. Hernandez, just in her ability to communicate.
2 Remember I told you I view that as extremely important? That's
3 all. If any of you share that view, no. If both sides share
4 that view, then she's gone. But otherwise, if either of you
5 disagree with my assessment, that's fine. I just throw it out.

6 MR. SCHNEIDER: I concur with the Court.

7 MR. CONWELL: We don't concur.

8 THE COURT: Wait, wait, wait. We got white noise
9 over here.

10 MR. CONWELL: Okay. We don't concur.

11 THE COURT: Excellent.

12 MR. CONWELL: She seemed to be able to communicate.

13 THE COURT: All right. Good. Anybody else that you
14 would just like to challenge for cause?

15 MR. SCHNEIDER: No.

16 THE COURT: No?

17 MR. CONWELL: I would like you to ask perhaps all
18 the questions of the woman who lives in San Luis Obispo --

19 THE COURTROOM DEPUTY: She can't hear your.

20 MR. CONWELL: The woman who lives in San Luis
21 Obispo, given the distance and, you know, starting at 8 A.M.,
22 she'd have to leave her house at 3 or 4.

23 THE COURT: You can ask her that and we will take
24 care of that.

25 MR. CONWELL: Okay.

1 THE COURT: Anyone -- the rule is I think it's
2 88 miles, right? But for Ms. Wolf, I don't care. I'm going to
3 order a hotel for her and for anybody else, primarily because
4 we're starting so early. Okay? So if anybody's having
5 difficulty there, great, we'll take care of that.

6 MR. CONWELL: Okay.

7 THE COURT: Okay? But if you want to get into it,
8 you can get into it. I'm going to give you guys five minutes.
9 There's really no need to talk to the people sitting on the
10 bench, okay? We can't get that far. Check my math: three
11 here on this side --

12 MR. SCHNEIDER: That's my math.

13 THE COURT: -- three on that side, we have a jury,
14 right?

15 MS. HILAIRE: Uh-huh.

16 THE COURT: Whenever you get there. All right. Ten
17 minutes. Ten minutes each side. Go.

18 (Open court in the presence of the jury.)

19 THE COURT: That was very important.

20 THE PROSPECTIVE JUROR NO. 16: Sure.

21 THE COURT: Anybody ever work in HR, human
22 resources? Of course you did.

23 THE PROSPECTIVE JUROR NO. 16: Yes, I did.

24 THE COURT: How long? Where? Here?

25 THE PROSPECTIVE JUROR NO. 16: Here, in the

1 Probation Office.

2 THE COURT: Have to fire people? Or oversee their
3 firing?

4 THE PROSPECTIVE JUROR NO. 16: I never did myself,
5 no.

6 THE COURT: Give any advice to any department heads
7 with respect to the discharge of any personnel?

8 THE PROSPECTIVE JUROR NO. 16: No.

9 THE COURT: Okay. Cool.

10 Anybody else have to fire anyone? Hmm. Mr. Karns.

11 THE COURTROOM DEPUTY: Speak into the mic.

12 THE COURT: Mr. Karns is sitting in the back right
13 in the middle.

14 THE COURTROOM DEPUTY: Yeah. We'll just pass it
15 around.

16 THE COURT: The circumstances, sir.

17 THE PROSPECTIVE JUROR NO. 11: Well, I worked at
18 Arrowhead Water Company and I was a manager and I had people
19 working under me, route salespeople, so I had to fire them, you
20 know, as time -- I mean, as things happened, so over the years,
21 in the course of over the years.

22 THE COURT: All right. You ever fire anybody just
23 because they were female?

24 THE PROSPECTIVE JUROR NO. 11: No.

25 THE COURT: Because they were a minority?

1 THE PROSPECTIVE JUROR NO. 11: No.

2 THE COURT: Because of their religious beliefs?

3 THE PROSPECTIVE JUROR NO. 11: No.

4 THE COURT: Okay. Just curious. Was that the
5 policy where you were working? Were there standards?

6 THE PROSPECTIVE JUROR NO. 11: Yes, absolutely.

7 THE COURT: Anybody else have to fire anyone?

8 Mr. Kotler.

9 THE PROSPECTIVE JUROR NO. 12: Kirby Kotler.

10 THE COURT: What about circumstances, sir?

11 THE PROSPECTIVE JUROR NO. 12: On construction
12 sites, and the only reason I fired anybody is they're not
13 adhering to safety procedures, affecting other people and
14 themselves.

15 THE COURT: All right. One other thing about work
16 spaces, work sites, places of employment and things that people
17 do. How do you feel about use of, say, company e-mail to send
18 off-colored jokes? I say off-color and that includes triple X
19 down to just whatever -- impolite, discourteous.

20 THE PROSPECTIVE JUROR NO. 12: You asking me?

21 THE COURT: I'm asking everybody.

22 Let me start with you, Ms. Hernandez. I want you to all
23 think about it. I'm talking about sending, for example, jokes
24 as to other employees through e-mail that may be, well, let's
25 go the range from just simply off-color, impolite, to

1 pornographic.

2 Yes, ma'am?

3 (Discussion with clerk off the record.)

4 THE COURT: Ms. English says that I ignored someone
5 on the last question with respect to discharging of employees.

6 Yes, sir, Mr. Running?

7 THE PROSPECTIVE JUROR NO. 2: I've worked at a
8 retail store and just over disciplinary issues.

9 THE COURT: Okay.

10 THE PROSPECTIVE JUROR NO. 2: Just tardiness and not
11 keeping up with their daily routine.

12 THE COURT: In doing so, did you pay any special
13 attention to -- well, first of all, did the retail stores have
14 some sort of a protocol that you had to follow or even a
15 checklist in terms of proper grounds for discharge?

16 THE PROSPECTIVE JUROR NO. 2: Just three write-ups.

17 THE COURT: Okay. Three write-ups?

18 THE PROSPECTIVE JUROR NO. 2: Yes.

19 THE COURT: So you had to document that employee's
20 performance. Did it also require that that employee be warned
21 of whatever that employee was engaging in that --

22 THE PROSPECTIVE JUROR NO. 2: Yes, two prior and
23 then on the third.

24 THE COURT: Okay. Was there a program where you put
25 an employee on, say, improvement needed before we got to the

1 ultimate of discharge?

2 THE PROSPECTIVE JUROR NO. 2: On the second he was,
3 yes, given a 30-day warning.

4 THE COURT: Okay. All right. And that was company
5 policy?

6 THE PROSPECTIVE JUROR NO. 2: Yeah.

7 THE COURT: Okay. Thank you. Anybody else?

8 Yes, Ms. Johns.

9 THE PROSPECTIVE JUROR NO. 3: I work at a credit
10 union so we -- at branch level, so operational issues that we
11 have, the tellers or platform staff, I've had to let people go
12 for that.

13 THE COURT: Same question as to Mr. Running. Was it
14 the practice to simply summarily let people go or was there
15 some sort of a protocol that you follow?

16 THE PROSPECTIVE JUROR NO. 3: No, there's certain
17 guidelines that we follow. If they have a certain amount of
18 outages or the dollar amount of an outage, or -- it's
19 progressive.

20 THE COURT: Okay. Is it fair to say that the
21 employee would be alerted to the circumstances or whatever
22 activities that employee was engaging in which was leading to
23 that employee's imminent termination, or would you just pull
24 the rug out from under them and go --

25 THE PROSPECTIVE JUROR NO. 3: Oh, no. We would

1 research everything and decide whether it was something that
2 needed to be terminated right away or put on counseling and a
3 training program.

4 THE COURT: Okay. Thank you.

5 Anybody else? (No response.)

6 Before I get back to my other question about e-mails,
7 etc., those of you who have worked at an organization, did your
8 organization have a policy for dealing with sexual harassment
9 complaints? Hands. Everybody's nodding.

10 For those of you who have dealt with -- who have actually
11 worked with a company? All right. Those of you who have
12 worked for a company or organization, did any of you work at a
13 place that did not have a protocol for handling sexual
14 harassment complaints? I see no hands.

15 THE COURTROOM DEPUTY: Oh, there's one.

16 THE COURT: Oh, Ms. Juarez?

17 THE PROSPECTIVE JUROR NO. 13: Yes.

18 THE COURT: You worked at an organization which did
19 not have a policy on how to deal with sexual harassment
20 complaints?

21 THE PROSPECTIVE JUROR NO. 13: Correct.

22 THE COURT: Outstanding. How long ago was this?

23 THE PROSPECTIVE JUROR NO. 13: I was there for five
24 years.

25 THE COURT: No, dear. How long ago was it that you

1 worked at this place? Was it before the dinosaurs --

2 THE PROSPECTIVE JUROR NO. 13: More than a year --
3 more than 20 years.

4 THE COURT: More than 20 years.

5 THE PROSPECTIVE JUROR NO. 13: Actually, it was
6 my -- you could say one of my first employers that I had.
7 Everybody complained about him being, uhm -- I don't know --
8 too good for -- with the employees. I didn't have any problem
9 with him. So I -- I tend to think that it's employers --
10 employees' responsibility to make themselves respect. So far
11 I've -- that's what I've done. And with that person, I never
12 had a problem.

13 THE COURT: Okay.

14 THE PROSPECTIVE JUROR NO. 13: So --

15 THE COURT: And you feel it's because of the way you
16 carried yourself?

17 THE PROSPECTIVE JUROR NO. 13: I -- well, I think
18 that in everything, my motto of living has always been respect
19 before everything.

20 THE COURT: Do you believe it's possible for a woman
21 who carries herself as a decent, respectable woman -- do you
22 believe that, nonetheless, she can be the victim of sexual
23 harassment?

24 THE PROSPECTIVE JUROR NO. 13: Yes.

25 THE COURT: Or unwanted sexual advances?

1 THE PROSPECTIVE JUROR NO. 13: Yes, yes.

2 THE COURT: So it's not always the woman's fault,
3 right?

4 THE PROSPECTIVE JUROR NO. 13: No, no.

5 THE COURT: Thank you.

6 THE PROSPECTIVE JUROR NO. 13: You're welcome.

7 THE COURT: But again, this was over 20 years ago,
8 right?

9 THE PROSPECTIVE JUROR NO. 13: Uhm, yes, yes.

10 THE COURT: I don't want to ask how much over, but
11 we didn't become civilized till -- I don't know -- day before
12 yesterday. I just want to make sure it's way in the past.

13 THE PROSPECTIVE JUROR NO. 13: Yes, it is.

14 THE COURT: Okay. All right. Thank you, ma'am.

15 THE PROSPECTIVE JUROR NO. 13: All forgotten.

16 THE COURT: Anybody else have a situation where they
17 worked someplace that did not have a formal process or program
18 or mechanism for dealing with sexual harassment complaints?
19 Did not have? (No response.)

20 Okay. Excellent. Thank you.

21 Now let's go back to my next scintillating question which
22 dealt with either sending or receiving -- let's deal with
23 receiving. How do you feel about receiving jokes, pictures
24 that we will call off-color, maybe even indecent, all the way
25 up to pornographic on -- through e-mails?

1 Ms. Hernandez, do you have any feeling about that one way
2 or another?

3 THE PROSPECTIVE JUROR NO. 1: Uhm, I never receive
4 anything like that. Can I --

5 THE COURT: So you don't have any view on it one way
6 or another?

7 THE PROSPECTIVE JUROR NO. 1: No.

8 THE COURT: Okay. Mr. Running?

9 THE PROSPECTIVE JUROR NO. 2: When you first asked
10 the question, you said through a business e-mail, right? Or
11 just in general?

12 THE COURT: Let's talk about business because what
13 folks do in the basement of their mom's house, who cares?

14 THE PROSPECTIVE JUROR NO. 2: Yes. Through business
15 I think it is very inappropriate.

16 THE COURT: Okay. What if -- okay. If you were on
17 the receiving end of such a communication, what, if anything,
18 would you do about it?

19 THE PROSPECTIVE JUROR NO. 2: Uhm, if it was through
20 work, I would report it to a supervisor in our human resources
21 department.

22 THE COURT: Okay. All right. Thank you.

23 Ms. Wolf? I'm sorry -- Ms. Johns?

24 THE PROSPECTIVE JUROR NO. 3: I think it's
25 inappropriate also.

1 THE COURT: Okay. What would you do about it?

2 THE PROSPECTIVE JUROR NO. 3: I would report it.

3 THE COURT: Okay. Ms. Wolf, same question.

4 THE PROSPECTIVE JUROR NO. 4: Yes, I think it's
5 totally inappropriate. And I guess being of a younger
6 generation than this group, I would try to handle it myself
7 first by just sending it back and saying it was totally
8 inappropriate and delete my name from your list.

9 THE COURT: Okay. Excellent.

10 THE PROSPECTIVE JUROR NO. 4: That would be my
11 first.

12 THE COURT: Okay. Ms. Ramos.

13 THE PROSPECTIVE JUROR NO. 5: I think it's the same
14 answer, be inappropriate. I get e-mails constantly 'cause I
15 work -- actually do work with providers and coordinators, so if
16 that were to ever -- were the case, I would actually report it
17 to my supervisor as well.

18 THE COURT: Okay.

19 THE PROSPECTIVE JUROR NO. 5: Uh-huh.

20 THE PROSPECTIVE JUROR NO. 6: I think that it is
21 wrong and that can be classified as sexual harassment. I just
22 seen a presentation about sexual harassment like a week ago.

23 THE COURT: Okay.

24 THE PROSPECTIVE JUROR NO. 7: Yes, I think it's
25 extremely unprofessional conduct and I probably would report it

1 to someone at my work, HR probably.

2 THE COURT: Thank you, Ms. Dunn.

3 THE PROSPECTIVE JUROR NO. 14: I agree that it's
4 inappropriate. If I were to receive something like that, at
5 least the first time I would probably ignore it at first.

6 THE COURT: Second time?

7 THE PROSPECTIVE JUROR NO. 15: Second time I would
8 tell somebody.

9 THE COURT: Okay. Thank you.

10 Ms. Juarez.

11 THE PROSPECTIVE JUROR NO. 13: Well, I'm going to
12 agree with the lady that talks about experience.

13 THE COURT: Ms. Hernandez?

14 THE PROSPECTIVE JUROR NO. 13: And I deal with it
15 the first time, but I will report it definitely.

16 THE COURT: All right. Thank you.

17 THE PROSPECTIVE JUROR NO. 12: Yeah, I think it's a
18 lack of respect. And if it happened to me, I would try and
19 work it out with the person if I thought that was a possibility
20 of doing it, and if not, I would absolutely go to somebody in
21 authority and pass it on.

22 THE COURT: Thank you.

23 Mr. Karns?

24 THE PROSPECTIVE JUROR NO. 11: Inappropriate and
25 delete it.

1 THE COURT: Take it any further?

2 THE PROSPECTIVE JUROR NO. 11: Uhm, I haven't
3 worked -- I work for myself, so I haven't --

4 THE COURT: You're the boss.

5 THE PROSPECTIVE JUROR NO. 11: Yeah. I really
6 haven't had that in the last 30 years. But, you know, if I was
7 working for someone, I would delete it first time. Second time
8 then I would bring it to their attention.

9 THE COURT: Their attention?

10 THE PROSPECTIVE JUROR NO. 11: Their meaning my
11 supervisor.

12 THE COURT: Oh, okay. Not the sender's attention?

13 THE PROSPECTIVE JUROR NO. 11: No.

14 THE COURT: Okay. Mr. Nation.

15 THE PROSPECTIVE JUROR NO. 10: I think it's
16 extremely inappropriate, and also the organization has the
17 right and authority to actually monitor that e-mail. So in my
18 opinion, they'd already know about it, if they had that
19 monitoring system.

20 THE COURT: Yes, Ms. Vargas.

21 THE PROSPECTIVE JUROR NO. 9: I think it's
22 unprofessional and if it happened to me, I would remind the
23 person about the rules and policies that were in place. And if
24 it would happen again, I would report it to my supervisor.

25 THE COURT: Okay.

1 THE PROSPECTIVE JUROR NO. 8: I think it's
2 inappropriate also, and if it happened to me, I would probably
3 talk to them first. But I would also talk to somebody in
4 charge and I would let them know before I talked to the person
5 in charge that I was going to.

6 THE COURT: All right. Good.

7 THE PROSPECTIVE JUROR NO. 15: Totally inappropriate
8 and again, I would also talk to them first, let them know that
9 it's against policies and then talk to the supervisor.

10 THE COURT: All right.

11 THE PROSPECTIVE JUROR NO. 16: I think it's
12 inappropriate too, and would probably talk to the person first,
13 letting him or her know that that is not an appropriate thing
14 in the workplace, and then probably tell her that if that would
15 happen again, I would report it to a supervisor.

16 THE COURT: Okay. Thank you.

17 I don't remember if I asked this, whether or not any of
18 you -- now, Ms. Juarez has addressed this, where she had been
19 the victim of unwanted advances. Anybody else in the workplace
20 victim of unwanted advances?

21 Yes, sir.

22 THE PROSPECTIVE JUROR NO. 12: Yeah.

23 THE COURT: Yeah, right.

24 THE PROSPECTIVE JUROR NO. 12: It was a long time
25 ago. It's embarrassing. Yeah, it was a long time ago in

1 Hawaii. I was a room service waiter and a manager. It didn't
2 happen once; it happened several times. People on vacation
3 and -- I don't know -- can't speak to it, but it happened.

4 THE COURT: And what did you do? You just chalk it
5 up and a cross you bear for being so hot?

6 THE PROSPECTIVE JUROR NO. 12: Uhm, it's awkward.
7 It's not comfortable and I wouldn't want that for somebody
8 else.

9 THE COURT: Right.

10 THE PROSPECTIVE JUROR NO. 12: Since I was the
11 manager, there really wasn't someone to report it to. And
12 oftentimes the hotel would put a spotter in there, pay for them
13 to be there and actually do this kind of stuff to see if we
14 would respond, male and female. So, you know, it's just -- I
15 was there to do a job and then I wanted to get out and go
16 surfing, so I kind of left it at that.

17 THE COURT: Thank you, sir.

18 Anybody else? Yes, ma'am? All the way -- oh, Ms. Dunn,
19 yes, of course.

20 THE PROSPECTIVE JUROR NO. 7: Unfortunately, yes. I
21 worked for a dentist about 2002 to 2007 who was of the mindset
22 where he would just come up and rub against you and it was
23 awkward, so I just cut him off. But he was known to have
24 probably had affairs with two other hygienists that were in our
25 office. And occasionally he would send, you know, it was just

1 like a late night e-mail that would come out, and I was like I
2 hope that was an accident because, you know. But I was a
3 single parent at that time so I couldn't really do anything
4 about it, so I kept my head down and moved forward and, you
5 know, till I could finally get out of that practice.

6 THE COURT: Was your response to him tempered by the
7 fact that he had control over your paycheck?

8 THE PROSPECTIVE JUROR NO. 7: My response to him
9 was, yes, because I had to work there and it was my only source
10 of income at that time, so I kind of, you know, didn't respond
11 to anything that he ever, you know, came on to me. I would
12 just not -- you know, just kind of nonresponse was my motto and
13 like just, you know, get away from me, you're being weird.

14 THE COURT: Okay. And why did you elect that
15 particular response?

16 THE PROSPECTIVE JUROR NO. 7: 'Cause I'm kind of
17 nonconfrontational and so I thought if I laid under the
18 limelight and let him move on to the next hygienist in the
19 other room, I wouldn't have to -- you know, he would finally
20 get the hint that I wasn't of that mindset, that I wasn't, you
21 know -- like what I had heard, there was two other hygienists
22 who had had relationships with him before I worked there.

23 THE COURT: Were you at all worried about
24 retaliation if your rejection was too firm or impolite?

25 THE PROSPECTIVE JUROR NO. 7: Hmm, not really.

1 THE COURT: Okay.

2 THE PROSPECTIVE JUROR NO. 7: Not really, no.

3 THE COURT: Good. Thank you.

4 THE PROSPECTIVE JUROR NO. 7: Yeah.

5 THE COURT: There was somebody else back there.

6 Yes?

7 THE PROSPECTIVE JUROR NO. 8: I worked in the
8 construction field, so of course I -- I encountered a lot of
9 construction workers, and I was probably one of the first women
10 painters in my area, so I would encounter that a lot. When I
11 was younger, I would kind of, like she said, duck my head and
12 run away. But as I got older and more suave with the
13 construction workers, I just learned how to handle them. I
14 would usually confront them, say, "This is not okay. You need
15 to stop it," and nine times out of ten they would.

16 THE COURT: Would you be holding a hammer while you
17 were delivering this message?

18 THE PROSPECTIVE JUROR NO. 8: Or a caulking gun.

19 THE COURT: Okay. Cool. Nail gun. That'll do it.

20 THE PROSPECTIVE JUROR NO. 8: I wasn't allowed to
21 have those.

22 THE COURT: Okay. Okay. All right.

23 Ladies and gentlemen, thank you. At this time I'm going
24 to have -- or permit the lawyers to ask a few questions of you,
25 follow-up questions. We'll begin with the plaintiff.

1 MR. CONWELL: Thank you, your Honor.

2 THE COURT: Ten minutes.

3 VOIR DIRE EXAMINATION

4 BY MR. CONWELL:

5 Q This case involves medical professions. Has anybody
6 here been involved in working with something called
7 credentialing in the medical profession where doctors are
8 credentialed? Does anybody have knowledge or experience with
9 that?

10 Yes?

11 THE PROSPECTIVE JUROR NO. 5: I don't necessarily
12 work in that department, but I do know people that work in
13 credentialing because they work for USC Medical Care Group.

14 Q Do you have any knowledge or particular expertise
15 involving the process of credentialing?

16 THE PROSPECTIVE JUROR NO. 5: Not really. But I do
17 talk to providers every day for work 'cause I do the medical
18 billing for orthopedics, so I'm constantly in direct with
19 providers and with where they went to school. I could look
20 that up all in my computer base and the program that we have.

21 MR. CONWELL: Okay. Ms. Dunn, in your work in the
22 dental field, have you had any experience with the process of
23 credentialing -- I don't know --

24 THE PROSPECTIVE JUROR NO. 7: Right. There's
25 disciplinary action if someone has had something brought

1 against their license, yeah.

2 Q And what sort of knowledge, experience do you have
3 about the disciplinary actions that can be brought in the
4 credentialing process?

5 THE PROSPECTIVE JUROR NO. 7: Uhm, that if -- in
6 inappropriate conduct with a patient, I had a dentist who was
7 putting patients under anesthesia and doing things to them at
8 one point with nitrous oxide sedation, so he was disciplined
9 and he lost his licensure. He wasn't allowed to be around
10 patients. That's basically what I know.

11 Q All right. Do you have any preconceived ideas about
12 whether or not if someone has been given a black mark on their
13 record in credentialing, whether or not you would assume that
14 to be rightfully given to them or not rightfully given to them?

15 THE PROSPECTIVE JUROR NO. 7: In -- I know in
16 dentistry it would have been rightfully given to them because
17 it takes a lot for them to finally do that.

18 Q Okay.

19 THE PROSPECTIVE JUROR NO. 7: At least in my field.

20 Q All right. Does anyone here -- has anyone here been
21 a defendant in a lawsuit? Has anyone been a plaintiff in a
22 lawsuit? (No response.)

23 Was anyone in this case the plaintiff?

24 THE PROSPECTIVE JUROR NO. 12: Actually, I was.

25 Q Yes, sir. What kind of dispute was that?

1 THE PROSPECTIVE JUROR NO. 12: It was my mom passed
2 away and her boyfriend tried to sue us for a million dollars
3 and take the house.

4 Q Okay. So you were?

5 THE PROSPECTIVE JUROR NO. 12: That was the extent
6 of it.

7 Q And yes, sir.

8 THE PROSPECTIVE JUROR NO. 10: How about class
9 action?

10 Q No. Not class action. So you were a member of a
11 large class?

12 THE PROSPECTIVE JUROR NO. 10: Yeah.

13 Q Anyway, you were one of the parties in the case?

14 THE PROSPECTIVE JUROR NO. 10: What was that?

15 Q One where -- turn it on, work better.

16 Anyway, you were actually the only party in the
17 case?

18 THE PROSPECTIVE JUROR NO. 10: No.

19 Q Does anyone have -- there's going to be a
20 presentation of evidence regarding damages in the case. Does
21 anyone have any opposition to awarding damages that are proven
22 to you by a plaintiff in a case? Just, you know, I feel a
23 little bit uncomfortable with that? You know, I think juries
24 give out big damage awards that are too big? Anybody have any
25 thoughts like that at all? (No response.)

1 Anybody at all? (No response.)

2 Okay. Ms. Wolf, are you saying yes?

3 THE PROSPECTIVE JUROR NO. 4: Yeah. I think that
4 many times they are excessive, the damages are excessive many
5 times. Not all the time, but many times I think they are and I
6 think they are sue happy people in this country, especially in
7 California, I think.

8 Q Okay. Do you -- do you or anyone else here have any
9 thoughts about whether or not most plaintiffs really are just
10 coming in and trying to get money out of somebody and most
11 plaintiffs' cases are not well founded; it's just kind of an
12 idea that you have? (No response.)

13 Anybody?

14 Yes?

15 THE PROSPECTIVE JUROR NO. 13: Well, maybe it won't
16 be in this case, but I work in the insurance industry, and,
17 yes, I think it's sometimes people just take advantage of the
18 means of getting money.

19 Q Do you think that would affect your ability to
20 decide this case, the fact that you work in the insurance
21 industry and you see instances where that's happened?

22 THE PROSPECTIVE JUROR NO. 13: For what I've heard,
23 it doesn't have anything to do, so I don't think so.

24 Q Okay. This case -- well, does anyone have an issue
25 at all in awarding punitive damages in a case? You know

1 what -- everybody know what punitive damages are? Have you
2 heard of that?

3 Does anyone here -- you're just philosophically
4 opposed and think that punitive damages should not be awarded
5 in litigation? (No response.)

6 I'm sorry. Was somebody --

7 THE PROSPECTIVE JUROR NO. 13: Yeah. I was going to
8 say well it depends on the case, I think. I don't know.

9 Q Right. Well, I -- certainly I understand what
10 you're saying. But I'm talking about where you just walk in
11 here before you've heard anything, you would honestly say,
12 "Yeah, I do have a problem with awarding punitive damages. I
13 think the plaintiff is going to have to really meet a very high
14 burden to get me to award punitive damages or for me to award
15 punitive damages"? Does anybody feel that way?

16 (No response.)

17 Okay. Has anyone been involved in an experience
18 where -- I know some of you said you had to fire or terminate
19 someone. Have any of you been involved in an experience where
20 you know of someone that was fired unfairly or where something
21 wrong happened in the firing and they were fired unfairly or
22 disciplined in their employment unfairly? Has anybody had that
23 experience before? (No response.)

24 Okay. As the Court has explained, one of the claims
25 here is for gender discrimination. Does anyone here think --

1 or walk in here with an idea that gender discrimination claims
2 are usually not well founded? (No response.)

3 Okay. Does anyone have a negative view about
4 doctors? You had a bad experience?

5 There's going to be a lot of doctors testifying in
6 this case and my client, Dr. Stewart, is a physician. Anybody
7 have any negative views about doctors or you've had a bad
8 experience with a doctor that you think would affect your
9 ability to decide this case? (No response.)

10 And you know, I know I've been looking there, but
11 not over here?

12 THE PROSPECTIVE JUROR NO. 15: No, that's fine.

13 THE PROSPECTIVE JUROR NO. 16: We're listening.

14 Q So you're listening, okay.

15 Would anyone here be reluctant to award money
16 damages to a plaintiff because she is a doctor? I mean, does
17 anyone have an idea that doctors are well compensated and so
18 for that reason you'd be reluctant to award damages if they're
19 proven to you? (No response.)

20 MR. CONWELL: How am I doing on time, your Honor?

21 THE COURT: Three minutes.

22 Q (BY MR. CONWELL:) Has anybody here served on a board
23 of directors? You've been a board member on a board of
24 directors? (No response.)

25 Has anyone here -- and I understand, Mr. Karns,

1 you've been self-employed -- anybody working in a company where
2 you've been an officer in the company? (No response.)

3 Does anyone -- you know, the judge asked you about
4 receiving off-color e-mails and so forth. Does anyone think
5 it's appropriate for a leader in an organization to forward
6 photographs and videos of nude women to other people in the
7 organization using the work computer? Does anyone think that
8 that's okay? (No response.)

9 Does anyone think that it's okay for the leader -- a
10 leader in an organization to forward ethnic and
11 racially-charged e-mails to others in the organization using
12 work computers? (No response.)

13 Okay. Does -- if -- yes, sir?

14 THE PROSPECTIVE JUROR NO. 12: I'm sorry. You
15 talking about business? Board of directors if it was a
16 nonprofit organization, does that count?

17 Q Yes.

18 THE PROSPECTIVE JUROR NO. 12: Okay. I'm sorry.
19 Then I did.

20 Q Okay. And what was the nonprofit?

21 THE COURTROOM DEPUTY: Pass the mic.

22 THE PROSPECTIVE JUROR NO. 12: The nonprofit was a
23 club called the Malibu Boardriders. It was 200 surfers that
24 provided a day at the beach for kids with cancer, 300 of them
25 annually, and we had five of us and it was very -- you had to

1 do the minutes and everything to follow the rules, but it was
2 pretty -- pretty chill.

3 Q This is probably my last question. If either as a
4 board member or just someone who is a part of an
5 organization -- could be a teacher in a school or an employee
6 in a company -- if you learn of inappropriate conduct by people
7 in leadership, how many people here would say you need to speak
8 up as opposed to keeping your mouth -- you know, staying quiet?
9 How many people think you should speak up about that?

10 Okay. Does anyone here think that you should just
11 keep quiet about it and play it safe, so to speak?

12 (No response.)

13 MR. CONWELL: Okay. Thank you, your Honor.

14 THE COURT: All right. Thank you, sir.

15 Mr. Schneider.

16 VOIR DIRE EXAMINATION

17 (BY MR. SCHNEIDER:)

18 Q Good morning, folks. You were asked if you had a
19 problem in awarding damages to people. I'd like to ask you if
20 you found that the evidence demonstrated that there was no
21 basis for awarding damages, would you have a problem finding
22 that way? Anybody? (No response.)

23 One of the parties to this case is not a -- an
24 actual human being, but is one in the eyes of the law and it's
25 a corporation. Does anybody think that corporations should be

1 treated better than regular people? (No response.)

2 Does anybody think that corporations should be
3 treated worse than regular people? (No response.)

4 Does anybody think that corporations should be
5 treated the same as regular people?

6 THE PROSPECTIVE JUROR NO. 11: Yes.

7 Q That seems to cover all the bases on that.

8 Have you or anyone close to you ever been expelled
9 from an association of any kind? (No response.)

10 Either fair or unfair? (No response.)

11 You've heard some references to off-color materials
12 and nudity. Does anyone have a problem with people outside the
13 work environment sharing that sort of thing by use of the
14 internet?

15 THE PROSPECTIVE JUROR NO. 11: Have a problem with
16 it? Yeah.

17 Q Okay, Mr. Karns, what is your problem about that?

18 THE PROSPECTIVE JUROR NO. 11: It's just like --
19 just like I said before, you know, you just -- I get e-mails
20 all the time from, you know, God knows who, but I just delete
21 it or try to get it into junk mail. So, I don't -- I don't
22 appreciate it, so --

23 Q It's something that you don't enjoy, but how do you
24 feel about other people who do seem to enjoy that sort of thing
25 sending those sorts of materials to like-minded people?

1 THE PROSPECTIVE JUROR NO. 11: To someone who wants
2 it?

3 Q Yes.

4 THE PROSPECTIVE JUROR NO. 11: I guess they can do
5 whatever they want to do. You know, I'm -- I just don't want
6 to be involved.

7 Q Okay. Two other people had raised their hands about
8 that.

9 THE PROSPECTIVE JUROR NO. 12: Yeah, I feel the same
10 way. If it's happening to me, I feel the uncomfortable. If
11 it's happening to someone else and I was a third party to it, I
12 couldn't stop it, it's their business.

13 Q That's their decision to make?

14 THE PROSPECTIVE JUROR NO. 12: Yeah.

15 Q And Mr. Nation, what is your position on that issue?

16 THE PROSPECTIVE JUROR NO. 10: My position is that,
17 you know, if you're sending me that material and we have some
18 type of relationship where we can accept, uhm, certain
19 correspondences like that whether, you know, jokingly or
20 something of that manner, I'm okay with that as long as I've
21 accepted that, uhm, from you in the past, essentially. So if
22 we have that type of relationship then, yeah, okay, go ahead
23 and send me that stuff; we might think it's funny or not funny,
24 so on and so forth.

25 But if it's somebody outside of that, meaning I don't have

1 a relationship with that person and I guess I don't really know
2 them or it's in a professional manner, I would disagree with
3 that; I wouldn't want it to happen.

4 Q But if you knew that you had a friend who enjoys
5 whatever the material is and you thought it was amusing or
6 entertaining, and you believed that that person would as well,
7 then it would be okay for you to send it to him?

8 THE PROSPECTIVE JUROR NO. 10: I mean, that's on a,
9 you know, case-by-case basis. Like I said before, if -- if
10 that person and I have joked around about that outside of a
11 correspondence as far as like e-mail, then, you know, there's
12 the potential for me to say, "Oh, you know what? He'll
13 probably think this is funny," or, "She might think this is
14 funny."

15 But other than that, you know, I wouldn't send something
16 like that and I wouldn't accept something like that.

17 MR. SCHNEIDER: Thank you, folks.

18 THE PROSPECTIVE JUROR NO. 6: Excuse me. I rose my
19 hand.

20 MR. SCHNEIDER: Oh, sorry.

21 THE PROSPECTIVE JUROR NO. 6: I have a problem with
22 pornography because I think it's wrong. I see many people
23 became addict to pornography and that bring bad consequence to
24 them. You know, like friends that starts sending like one
25 e-mail with pornography and then they send like ten e-mails per

1 day, I'm like, really? So I have seen people became addict to
2 pornography.

3 Q (BY MR. SCHNEIDER:) Okay. Anyone else have
4 anything that they would like to offer? (No response.)

5 Okay. Thank you, folks.

6 THE PROSPECTIVE JUROR NO. 15: Hi. I pretty much
7 feel the same way. I really don't appreciate that at all, so
8 I -- I would just rather not even deal with it. I don't want
9 to deal with that. I don't think it's professional and I don't
10 like it at all.

11 Q So you don't want to receive it?

12 THE PROSPECTIVE JUROR NO. 15: I don't want to
13 receive it.

14 Q What I'm asking is do you have a problem with one
15 person who enjoys it sending it to another person who also
16 enjoys it?

17 THE PROSPECTIVE JUROR NO. 15: Oh, as long as I'm
18 out of it, you know, it's whatever they decide they want to do,
19 you know.

20 MR. SCHNEIDER: Okay. Thank you.

21 Well, I've tried to sit down three times now. Is there
22 anybody else who wants to offer an opinion on the subject?

23 (No response.)

24 Okay. Thank you very much.

25 THE COURT: And you have time to spare. So we're

1 going to use your time for you to -- both sides to sit and
2 carefully consider against whom you would like to exercise your
3 peremptory challenges, if anyone. All right? Then we will
4 have a jury and that will be that. You have one minute.

5 (Brief pause in the proceedings.)

6 THE COURT: All right, counsel, let's go. Does
7 the -- does the plaintiff pass for cause?

8 MR. CONWELL: Yes, your Honor.

9 THE COURT: Does the defense pass for cause?

10 MR. SCHNEIDER: Yes, your Honor.

11 THE COURT: First peremptory is with the plaintiff.
12 You're kidding.

13 MR. CONWELL: Number 4.

14 THE COURT: All right. Ms. Wolf, you may return to
15 the jury room on the third floor. Our issues have been
16 resolved. Thank you, ma'am.

17 All right. The defense first peremptory.

18 MR. SCHNEIDER: Your Honor, the defense would like
19 to thank and excuse Juror No. 6, Mr. Contreras.

20 THE COURT: All right. Thank you.

21 Mr. Contreras, you may return to the third floor jury
22 room. And thank you, sir, for your willingness to serve.

23 Plaintiff's second peremptory.

24 MR. CONWELL: We'll pass on this round.

25 THE COURT: All right. Plaintiff passes.

1 Defense second peremptory.

2 MR. SCHNEIDER: Your Honor, the defense would like
3 to thank and excuse Juror No. 7, Ms. Dunn.

4 THE COURT: All right. Ms. Dunn, you may return to
5 the third floor jury assembly room.

6 Plaintiffs, your second peremptory.

7 MR. CONWELL: We'll pass on this round.

8 MR. SCHNEIDER: Your Honor, the defense would like
9 to thank and excuse Juror No. 8, Ms. Cattaneo.

10 THE COURT: All right. Thank you, ma'am. You may
11 return to the third floor.

12 All right. Plaintiff's second peremptory challenge.

13 MR. CONWELL: Number 10.

14 THE COURT: All right. Mr. Nation, thank you, sir.
15 You are excused. You may return to the third floor.

16 THE PROSPECTIVE JUROR NO. 10: Have a good day.

17 THE COURT: Plaintiff's third peremptory.

18 MR. CONWELL: Number 13.

19 THE PROSPECTIVE JUROR NO. 13: Do we have numbers?

20 THE COURT: Actually, you do, ma'am. Ms. Juarez,
21 that was directed at you, ma'am. As entertaining as you are --

22 THE PROSPECTIVE JUROR NO. 13: Well, good luck.

23 THE COURT: Thank you, ma'am.

24 All right. We -- where is -- I'm missing something. I
25 don't remember -- I'm missing -- okay. We now have a jury.

1 You all, thank you. You may return upstairs. Thank you
2 for your willingness --

3 THE PROSPECTIVE JUROR NO. 16: Thank you, Judge.

4 THE COURT: -- at least.

5 THE COURTROOM DEPUTY: Please rise. And please
6 raise your right hand.

7 Ladies and gentlemen of the jury, do you and each of you
8 solemnly swear that you will well and truly try the cause now
9 before this court and render a true verdict according to the
10 evidence and instructions of the court, so help you God?

11 (All jurors answered in the affirmative.)

12 THE COURTROOM DEPUTY: Thank you. Please be seated.

13 THE COURT: All right. Ladies and gentlemen, couple
14 of things. I'm going to give you a formal instruction, but I'm
15 also going to just give you some advice. You all are wearing
16 white badges. My preference is is that you only speak to other
17 people wearing white badges, but I know that isn't always
18 practical.

19 What I don't want you to do under any circumstances at all
20 is to communicate with anyone you see at these tables. If you
21 say good morning to them when you encounter them in the
22 corridor, they won't respond. It's still a capital offense for
23 an attorney to communicate with a juror in the midst of a trial
24 that that juror is sitting on. So it's not they're not being
25 impolite and don't hold it against them. Okay?

1 But my preference is is that you don't talk to anyone who
2 is not wearing a white badge. All right.

3 Now I'll say a few other words about your conduct as
4 jurors. First, you are not to discuss this case with anyone,
5 including members of your family, people involved in the trial,
6 or anyone else. This includes discussing the case in internet
7 chat rooms or through internet blogs, internet bulletin boards
8 or e-mails, nor are you allowed to permit others to discuss the
9 case with you. If anyone approaches you and tries to talk to
10 you about the case, please let me know about it immediately.

11 Secondly, do not read or listen to any news reports,
12 articles, radio, television, or online reports about the case
13 or about anyone who has anything to do with it.

14 Third, do not do any research, such as consulting
15 dictionaries, searching the internet, or using other reference
16 materials. And do not make any investigation about the case on
17 your own.

18 Fourth, do not make up your mind about what the verdict
19 should be until after you have gone to the jury room to decide
20 the case and you and your fellow jurors have discussed the
21 evidence. Until then, keep an open mind.

22 Finally, until this case is given to you for your
23 deliberation and verdict, you are not to discuss the case, even
24 with your fellow jurors.

25 Now, you're going to be discharged -- not discharged --

1 we're going to adjourn for the day. But before you leave the
2 building, Ms. English is going to have to show you how to get
3 back into the building, okay?

4 But until then, we'll see you at 8 o'clock in the morning.

5 THE COURTROOM DEPUTY: All rise.

6 (Open court out of the presence of the jury.)

7 THE COURT: Okay. Anything we need to talk about
8 before tomorrow? We come back tomorrow, we're going to do
9 opening statements. If you wish and have agreed upon
10 preliminary instructions, I will give them. And then we will
11 begin with the presentation of evidence starting with the
12 plaintiff.

13 Now, one caution. If you run out of witnesses before
14 11 o'clock, you have rested. Is that clear?

15 The other thing is this: Everybody's got plenty of help
16 or something sitting at counsel table. I don't want to have a
17 witness step down and have to wait ten minutes for the next
18 butt to get in that chair. I want the next witness standing
19 outside in the anteroom or narthex or whatever that is out
20 there, standing there, because by the time we get to
21 re-re-redirect, come on, let's -- I want -- I want one butt
22 leaving that chair and another one shortly after filling it. I
23 want this thing to move. Let's not waste time. Any questions
24 about that? We're good?

25 Anything we need to talk about before tomorrow?

1 (No response.)

2 I do want the plaintiffs to let defense counsel know what
3 witnesses you plan to call tomorrow.

4 MR. SCHNEIDER: They've already been kind enough to
5 do that, your Honor.

6 THE COURT: This is outstanding the way you guys
7 have gotten along so well. It is truly. I mean that.

8 I will be here very early, so if there's anything we need
9 to talk about in the morning before the jury gets in, we'll
10 talk about it because I don't want to waste time. I don't want
11 to waste their time, okay?

12 Okay. See you in the morning.

13 MS. HILAIRE: Your Honor, what's the earliest time
14 we can come in to test the technology?

15 THE COURT: You can -- I'd say you can do it today.
16 6:30.

17 MS. HILAIRE: Thank you.

18 THE COURT: He's going -- 4:30? Having trouble
19 sleeping?

20 MS. HILAIRE: I'll take 5.

21 THE COURT: Take 5? Okay. You'll be here early,
22 though. Okay. Go away. Got another.

23 (Proceedings adjourned at 11:09 A.M., until
24 Wednesday, January 27, 2016, at 8:00 A.M.)
25

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